UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,542	03/10/2004	James A. Baranowski	60655.7300	2541

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EXAMINER
FISHER, PAUL R

ART UNIT	PAPER NUMBER
3689	

NOTIFICATION DATE	DELIVERY MODE
10/28/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	10/708,542	BARANOWSKI ET AL.
	Examiner	**Art Unit**	
	PAUL R. FISHER	3689	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>19 October 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

 a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

 (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);

 (b)☐ They raise the issue of new matter (see NOTE below);

 (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

 (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

 NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

 The status of the claim(s) is (or will be) as follows:

 Claim(s) allowed: _____.

 Claim(s) objected to: _____.

 Claim(s) rejected: <u>1-6 and 10-22</u>.

 Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Dennis Ruhl/
Primary Examiner, Art Unit 3689

Continuation of 11. does NOT place the application in condition for allowance because: The amendments will not be entered since, while it appears to overcome the new matter rejection, the new claim language will require further search and consideration since it changes the language and scope of the claim.

In response to the applicant's argument that, "'printed matter" is not implicated in the present claims. Accordingly Applicants submit that the Examiner reconsider, at least, the claimed data structures," the Examiner respectfully disagrees. MPEP 2106.01 states that "Nonfunctional descriptive material" includes but is not limited to music, literary works, and a compilation or mere arrangement of data. For example claim 1, recites a "database configured to store information", which does not provide any functional relationship between the data and the structure of the system itself. This is considered to be a mere collection of data since it does not change or alter the structure of the system or even how the system operates in anyway. Therefore the rejection is maintained.

In response to the applicant's argument that, "Altman may disclose the use of a preferred carrier such that the preferred carrier is static, as no provision in Altman discloses or contemplates that a preferred carrier's preferred status may change. Altman may also disclose the retention of a past travel history. However, Altman does not disclose or contemplate the routing of a new travel request by a technology provider to a particular GDS based upon a comparison of past travel information and negotiated contractual terms. Such a configuration provides, in part, real time enforcement of contracts and enables a travel purchasing entity to more efficiently and effectively procure travel, while fully realizing any negotiated contractual benefits. Altman may suggest a particular carrier to travelers over multiple travel requests, but the present claims allow for dynamic carrier selection based upon a comparison of past travel history and present contractual requirements," the Examiner respectfully disagrees. As noted below these features are features not currently claimed and thus are not required. However Altman does disclose
"wherein the point of service terminal is configured to route, via the technology provider, a travel request to at least one of the plurality of data distribution systems based upon a comparison of the past travel information and the negotiated contractual terms such that the fulfillment of the travel request complies with the negotiated contractual terms," as currently written in the claims an was shown in the Final rejection dated on August 18, 2009, copied here for reference Page 4, paragraph [0056]; discloses that the users can access the system and that the technology provider or travel system to submit requests to data distribution systems. Page 2, paragraph [0034], Page 5, paragraph [0070] and [0076]; disclose that the user's preferences are stored in the system and that these preferences are used to conduct searches and submit requests and that the negotiated terms are check for compliance before the reservation is allowed to go through. For this reason as well as the reasons set forth below the rejection has been maintained.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "routing of a new travel request by a technology provider to a particular GDS based upon a comparison of past travel information and negotiated contractual terms") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claim reads "wherein the point of service terminal is configured to route, via the technology provider, a travel request to at least one of the plurality of data distribution systems based upon a comparison of the past travel information and the negotiated contractual terms such that the fulfillment of the travel request complies with the negotiated contractual terms," This does not require routing the new travel request to a "particular GDS" as suggested by the applicant.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "real time enforcement of contracts") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). There is no mention of requiring real time enforcement of the contracts, the claim as currently written do not require the actions to take place in real time.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "allowing for dynamic carrier selection") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims do not require that the system allows for dynamic carrier selection, since this limitation is not found in the claims as currently written.

All rejections made towards the dependent claims are maintained due to the lack of a reply by the applicant in regards to distinctly and specifically pointing out the supposed errors in the Examiner's action in the prior Office Action (37 CFR 1.111). The Examiner asserts that the applicant only argues that the dependent claims should be allowable because the independent claims are unobvious and unpatentable over Altman, in view of Acebo, further in view of Rosenbluth and Delorme.